

420 KAR 1:010. Definitions.

RELATES TO: KRS 151.100-151.600, 151.700-151.730, 151.990, 223.400-223.460, 224.70, 224.73

STATUTORY AUTHORITY: KRS 151.710, 151.720, 151.725, 151.730

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151.700 through 151.730 authorize the Kentucky River Authority to manage the surface water and groundwater of the Kentucky River basin. The authority has the power and duty to develop and to implement programs relating to the locks and dams on the Kentucky River; to acquire, to sell and to lease property; to develop recreational areas; to issue revenue bonds; to assess fees for water use; to contract for services; to adopt administrative regulations protecting water in the Kentucky River basin; to develop and to implement comprehensive plans for protecting the water of the Kentucky River basin; and to collaborate with the Natural Resources and Environmental Protection Cabinet and other state agencies in coordinating Kentucky River basin water resource and water quality activities. This administrative regulation establishes definitions pertaining to those powers and duties.

Section 1. Definitions. (1) "Administrative services" means clerical assistance provided by the cabinet in accordance with KRS 151.710(10), including secretarial and bookkeeping assistance.

(2) "Annual report" means the report the authority submits annually to the Governor and to the Legislative Research Commission pursuant to KRS 151.710(12).

(3) "Best management practices" or "BMPs" means those practices which are effective and practical structural or nonstructural methods which prevent or reduce the movement of pollutants from the land to surface water or groundwater, or which otherwise protect surface water or groundwater from potential adverse effects of land use activities such as agricultural or silvicultural activities, stormwater run-off, spills or leaks, and land application or land disposal of waste.

(4) "Cabinet" means the Natural Resources and Environmental Protection Cabinet created pursuant to KRS 224.10-010.

(5) "County long-range water resource plan" means the county long-range water resource plan submitted by a county for the authority's review pursuant to KRS 151.720(9) and 420 KAR 1:030.

(6) "Discharge" or "discharge of a pollutant" means any addition of any pollutant or combination of pollutants to surface water or groundwater of the Kentucky River basin from any point source. This includes additions of pollutants into waters of the Kentucky River basin from surface run-off which is collected or channeled by man; discharges through pipes, sewers or other conveyances whether publicly or privately owned; and discharges through pipes, sewers, or other conveyances leading into privately or publicly owned treatment works.

(7) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that the waste or any waste constituent may enter the environment or be emitted into the air or discharged into water.

(8) "Diversion" means a nonconsumptive redirection of all or part of the flow of a stream.

(9) "Drought response plan" means the drought response plan for the Kentucky River basin developed by the authority pursuant to KRS 151.720(9) and 420 KAR 1:030.

(10) "Effluent limitations" means any restrictions or prohibitions established by 401 KAR Chapter 5.

(11) "Fee" means a water use fee for protection of the surface water and groundwater of the Kentucky River basin, paid to the authority by persons who use that water.

(12) "Floodplain" means the normally dry area or wetland adjoining a stream or lake that is inundated during a flood event.

(13) "Floodway" means that area of a stream or watercourse necessary to carry off flood water as determined by the cabinet or by the authority.

(14) "Gross withdrawal" means the amount of water withdrawn.

(15) "Groundwater" or "ground water" means all water which fills the natural openings under the earth's surface, including all underground watercourses, artesian basins, reservoirs, lakes, and other bodies of water below the earth's surface.

(16) "Kentucky River Authority" or "authority" means the Kentucky River Authority created pursuant to KRS 151.710.

(17) "Kentucky River basin" or "basin" means all geographic areas of the Commonwealth contained within the watershed of the Kentucky River and its tributaries, including surface water and groundwater, and delineated as hydrologic unit code 0510020 in the document entitled "Hydrologic Unit Map - 1974, State of Kentucky", published in 1974 and reprinted in 1988, and incorporated by reference in Section 2 of this administrative regulation.

(18) "Leakage" or "leak" means the amount of water lost due to leaks in a water supply or water distribution system after it has been withdrawn by the water supplier or purchased by the water supply distributor.

(19) "Long-range water resource plan" means the water supply plan described in 401 KAR 4:220, with the additions required by 420 KAR 1:030.

(20) "Mainstem Kentucky River" means the Kentucky River, including Pool 14, which extends from the North Fork of the Kentucky River at River Mile 261.6 above the confluence of Walkers Creek, the Middle Fork of the Kentucky River at River Mile 6.0 below the confluence of Coal Branch, and the South Fork of the Kentucky River at River Mile 4.0 below the confluence of Paw Paw Creek, to River Mile 0 at the confluence with the Ohio River at Carrollton.

(21) "Map of potential sources of water pollution" means the map of potential sources of contamination described in 401 KAR 4:220, Section 6 with the additions required by 420 KAR 1:030.

(22) "Net withdrawal" means the difference between the amount of water withdrawn for noncontact cooling water and the amount of that water discharged.

(23) "Noncontact cooling water" means surface water or groundwater withdrawn from the Kentucky River basin for the purpose of reducing the temperature of a product or equipment used in making a product, if the following conditions exist:

(a) The noncontact cooling water does not come into contact with the product;

(b) The noncontact cooling water is discharged in accordance with a Kentucky Pollutant Discharge Elimination System (KPDES) permit that identifies the water as noncontact or once-through cooling water;

(c) The noncontact cooling water is discharged in accordance with water quality standards;

(d) The noncontact cooling water is discharged within 300 linear feet of the withdrawal point or into the same pool of water; and

(e) Net withdrawal is no greater than ten (10) percent.

(24) "Nonpoint source pollution" means pollution caused by diffuse sources, including land runoff, atmospheric deposition, or percolation through soils and rocks.

(25) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, interstate body, estate, or other entity.

(26) "Point source" means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel, or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

(27) "Pollutant" means dredged spoil, solid waste, hazardous waste, special waste, incinerator residue, sewage, sewage sludge, garbage, chemical materials, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial waste, municipal waste, silvicultural waste, agricultural waste, and any substance resulting from the development, pro-

cessing, or recovery of any natural resource which may be discharged into water.

(28) "Project" means a project authorized by KRS 151.700 to 151.730 and approved by the authority, including staff and overhead.

(29) "Quarterly report" means the report the authority submits quarterly to the General Assembly's Committee on Appropriations and Revenue pursuant to KRS 151.720(14).

(30) "Revenue bond" or "bond" means a revenue bond described by KRS 151.720(5) and KRS 151.730.

(31) "Semipublic water supplier" means any water supply system that serves more than three (3) families, but is not a water supplier or distributor.

(32) "Seven (7) day, ten (10) year low flow" or "7Q10" means that minimum average flow which occurs for seven (7) consecutive days with a recurrence interval of ten (10) years.

(33) "Standard" or "water quality standard" means an administrative regulation adopted by the authority, or by the cabinet if the authority fails to adopt it, establishing the use to be made of a surface water or groundwater and the water quality criteria necessary to maintain and protect that use.

(34) "Stream" means a river, creek or channel, having well-defined banks, in which water flows for substantial periods of the year to drain a given area, or any lake or other body of water.

(35) "Surface waters" means those above-ground waters having well-defined banks and beds, either constantly or intermittently flowing; lakes and impounded waters; marshes and wetlands; and any subterranean waters flowing in well-defined channels and having a demonstrable hydrologic connection with the surface.

(36) "Tier I fee" means a fee:

(a) Funding watershed management projects of benefit to the entire watershed of the Kentucky River basin and funding the authority's general expenses;

(b) Set by the authority based on the authority's budget; and

(c) Paid by all persons who use surface water or groundwater of the Kentucky River basin.

(37) "Tier II fee" means a fee:

(a) Funding any project of benefit to a certain part of the Kentucky River basin;

(b) Set by the authority based on the authority's budget; and

(c) Paid by all persons who use surface water or groundwater of the Kentucky River basin and who derive a direct benefit from that project.

(38) "Transfer" means an interbasin diversion of surface waters or groundwaters to or from the Kentucky River basin.

(39) "Unified long-range water resource plan" or "unified plan" means the unified long-range water resource plan for the Kentucky River basin developed by the authority pursuant to KRS 151.720(9) and 420 KAR 1:030.

(40) "Use" or "using", if referring to the use of water in the Kentucky River basin described in KRS 151.720(5), means the withdrawal of surface water from the Kentucky River or its tributaries, the withdrawal of groundwater within the Kentucky River basin, the point source discharge of pollutants to the Kentucky River or its tributaries, the point source discharge of pollutants to groundwater within the Kentucky River basin, the use of surface water from the Kentucky River or its tributaries for generation of hydroelectric power, the diversion or transfer of waters in the Kentucky River basin, and the use of the Kentucky River or its tributaries for navigation or recreation. "Use" or "using" shall not apply to those facilities using water primarily for agricultural purposes.

(41) "Water" means all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes and wetlands, and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Kentucky River basin.

(42) "Water conservation" means methods and applications of passive and active water savings and reuse devices, components and processes to reduce demand for water supply.

(43) "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radio-

active properties of water in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural, or other legitimate purposes.

(44) "Water resources map" means the water resources map described in 401 KAR 4:220, Section 6, and required by 420 KAR 1:030.

(45) "Water shortage emergency" means the authority's declaration that a significant number of citizens in the emergency area are served by water suppliers that are experiencing deficits in the amount of water available for use.

(46) "Water shortage response plan" means the water shortage response plan described by 401 KAR 4:220, Section 6 and required by 420 KAR 1:030.

(47) "Water shortage warning" means the authority's declaration that some water suppliers in the warning area are experiencing deficits in the amount of water available for use.

(48) "Water shortage watch" means the authority's declaration that hydrologic conditions exist in the watch area that indicate the potential for deficits in the amount of water available for use by water suppliers.

(49) "Water supplier" means any system that provides water to the public for human consumption, has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days of the year, and withdraws more than fifty (50) percent of the water it distributes.

(50) "Water supply distributor" means any system that provides water to the public for human consumption, has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days of the year, and depends on a water supplier to provide fifty (50) percent or more of the water it distributes.

(51) "Water supply plan" means the final plan document approved by the cabinet pursuant to KRS 151.110 through 151.118 and 401 KAR 4:220.

(52) "Water supply protection area" means the designated watershed of a surface water supply source, or the designated recharge area of a groundwater supply source, or a designated wellhead protection area.

(53) "Water supply source" means a particular site or classification of site where water is withdrawn.

(54) "Watershed" means all the area from which all drainage passes a given point downstream.

(55) "Wetlands" means land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwaters at a frequency and duration sufficient to support, and that under normal circumstance does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, floodplains and similar areas.

(56) "Withdraw" or "withdrawal of water" means the actual removal or taking of water from any surface waters or groundwaters of the Kentucky River basin.

Section 2. Incorporation by Reference. The document entitled "Hydrologic Unit Map - 1974, State of Kentucky", published in 1974 and reprinted in 1988, is hereby incorporated by reference. It is available for public inspection and copying, subject to copyright law, at the office of the Kentucky River Authority, 107 Mero Street, Frankfort, Kentucky 40601, between the hours of 8 a.m. and 4:30 p.m., Mondays through Fridays, excluding state holidays. (20 Ky.R. 873; Am. 1619; 1792; eff. 12-17-93.)